



RAILROAD COMMISSION OF TEXAS

OFFICE OF GENERAL COUNSEL

MEMORANDUM

TO: Chairman David Porter
Commissioner Christi Craddick
Commissioner Ryan Sitton

FROM: Haley Cochran, Attorney– General Counsel Section
Office of General Counsel *HCC*

THROUGH: Alexander C. Schoch, General Counsel *AS*

DATE: August 17, 2016

SUBJECT: Proposed Amendment of 16 TAC §3.28, relating to
Potential and Deliverability of Gas Wells to be
Ascertained and Reported; Docket Number 20-
0301391.

August 24, 2016		
Approved	Denied	Abstain
The Approved column contains several circular stamps, including one from the "OFFICE OF THE ATTORNEY GENERAL" and another from the "RAILROAD COMMISSION OF TEXAS". There are also handwritten initials and signatures in this column.		

Attached is Staff's recommendation to publish amendments to 16 Tex. Admin. Code §3.28, relating to Potential and Deliverability of Gas Wells to be Ascertained and Reported. The amendments would adjust the methodology regarding deliverability testing requirements for gas wells to minimize the frequency of such tests, thereby reducing the administrative burden for those wells and associated costs to industry.

Staff requests the Commission's approval to publish the proposed amendments in the *Texas Register* for a 30-day comment period. If approved at conference on August 24th, the proposal should appear in the September 9, 2016 issue of the *Texas Register*. The proposal and an online comment form would also be made available on the Commission's website the day after conference, giving interested persons more than two additional weeks to review and submit comments to the Commission.

cc: Kimberly Corley, Executive Director
Lori Wrotenberg, Director – Oil and Gas Division
Tim Poe, Asst. Director for Administrative Compliance – Oil and Gas Division
Wei Wang, Chief Financial Officer

1 The Railroad Commission of Texas (Commission) proposes amendments to §3.28, relating to
2 Potential and Deliverability of Gas Wells to be Ascertained and Reported. The amendments would
3 adjust the methodology regarding deliverability testing requirements for gas wells to minimize the
4 frequency of such tests, thereby reducing the administrative burden for those wells and associated costs
5 to industry.

6 Specifically, the proposed amendments modify the requirements for conducting deliverability
7 tests on gas wells and filing the test results with the Commission. Results of such tests are typically
8 required to be filed semi-annually on Form G-10, Gas Well Status Report. The Commission proposes
9 new subsection (d) to specify that an operator may elect not to perform or file a deliverability test for a
10 well after the initial deliverability test has been filed, except in certain circumstances identified in new
11 subsection (e). If the operator elects not to perform such a test, then the Commission would use the
12 lesser of the previous deliverability test results or the maximum daily production from the previous 12
13 months to determine the deliverability of record, which is used in calculating well allowables in
14 subsequent months.

15 Notwithstanding subsection (d), proposed new subsection (e) would require that an operator
16 conduct a deliverability test in the following situations: at initial completion of the well; at recompletion
17 of the well into a different field; at reclassification of an oil well to a gas well; when an inactive well is
18 returned to production; when the well is completed in a regulatory field where the allocation formula is
19 based in whole or in part on the downhole pressure of the well; when necessary to reinstate an allowable;
20 or when required by Commission order, special field rule, or other Commission rule. For example,
21 operators of wells authorized to surface commingle production pursuant to §§3.26 and 3.27 of this title
22 (relating to Separating Devices, Tanks, and Surface Commingling of Oil, and Gas To Be Measured and
23 Surface Commingling of Gas, respectively) will be required to conduct and report deliverability tests at
24 the same frequency at which those tests are currently required by those rules or by the order authorizing
25 the commingling.

1 The overall effect of the proposed amendments would be to require deliverability testing in
2 specific instances, rather than as a general requirement. Based on the proposed revisions, the
3 Commission anticipates receiving approximately 70% fewer Form G-10 filings.

4 Further, the Commission proposes to amend subsections (a) and (b) to modify the time frame in
5 which tests shall be run to conform to the 90-day completion report deadline in §3.16 of this title
6 (relating to Log and Completion or Plugging Report).

7 The Commission also proposes other non-substantive clarifications and updates.

8 Mr. Timothy A. Poe, Assistant Director for Administrative Compliance, Oil & Gas Division, has
9 determined that for each year of the first five years the amendments will be in effect there will be fiscal
10 implications to the Commission and to the regulated industry as a result of the amendments. There will
11 be no fiscal effect on local government. Commission staff estimates that approximately 134,632 wells
12 were required to provide deliverability test information in the past year. Of those, 39,728 (approximately
13 30%) fall into categories where deliverability testing would still be required under the proposed
14 amendments.

15 The Commission will benefit from reduced postage costs due to reduced enforcement activities
16 related to deliverability tests. Staff has determined that over a representative twelve-month period,
17 approximately 21,750 notices were mailed to operators listing their wells in a given field that were due
18 for deliverability testing; approximately 3,000 notices of delinquency were mailed to operators who had
19 failed to submit G-10 tests; approximately 1,560 notifications were mailed to operators by certified mail
20 advising that seal orders would be issued due to that delinquency; and approximately 280 seal orders
21 were ultimately mailed. The overall annual postage cost for those mailings is approximately \$15,625.
22 Assuming a 70% reduction due to the decreased number of required tests, the amendments would result
23 in an annual savings to the Commission of approximately \$10,935. Therefore, staff estimates an overall
24 reduction in costs over five years of \$54,675, which exceeds the cost of implementing the proposed
25 amendments.

1 Mr. Poe estimates that there would be a one-time cost of \$23,125 associated with programming
2 modifications to the Commission's data processing systems to implement the proposed amendments.
3 These modifications will enable the Commission's systems to perform the necessary calculations to
4 identify wells for which deliverability tests are still required and to track the source of the data in well
5 deliverability records. For wells for which testing is not required, the modifications will enable the
6 Commission's systems to record the appropriate deliverability to be used in calculating well allowables
7 in subsequent months.

8 Mr. Poe has determined that for each year of the first five years the proposed amendments are in
9 effect, the anticipated public benefit will be more efficient use of Commission resources due to reduced
10 administrative costs and overhead associated with routine testing.

11 Mr. Poe has also determined that there is no economic cost for persons required to comply with
12 the proposed amendments. Industry will, however, benefit from the modified testing and filing
13 requirements. Commission records indicate that there are approximately 134,632 gas wells for which
14 operators are currently required to perform deliverability testing. Of these wells, 39,728 would still
15 require deliverability testing under the proposed amendments. The remaining 94,894 wells would no
16 longer be required to undergo routine testing. Estimated costs to perform a deliverability test range from
17 \$400 to \$450 per test for low pressure wells, and \$1,100 to \$1,450 for high pressure wells. The majority
18 of wells tested are low pressure wells. Using the conservative figure of \$400 per test and assuming that
19 each well is currently required to be tested only annually, operators could see a potential benefit in
20 excess of \$37,957,600 in annual cost savings.

21 The Commission has determined that the proposed amendments to §3.28 will not have an
22 adverse economic effect on small businesses or micro-businesses. As noted above, there is no anticipated
23 additional cost for any person required to comply with the proposed amendments. Therefore, the
24 Commission has not prepared the economic impact statement or the regulatory flexibility analysis
25 pursuant to Texas Government Code §2006.002.

1 The Commission has also determined that the proposed amendments will not affect a local
2 economy. Therefore, the Commission has not prepared a local employment impact statement pursuant to
3 Texas Government Code §2001.022.

4 The Commission has determined that the amendments do not meet the statutory definition of a
5 major environmental rule as set forth in Texas Government Code, §2001.0225(a); therefore, a regulatory
6 analysis conducted pursuant to that section is not required.

7 Comments on the proposed amendments may be submitted to Rules Coordinator, Office of
8 General Counsel, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967; online at
9 www.rrc.texas.gov/legal/rules/comment-form-for-proposed-rulemakings; or by electronic mail to
10 rulescoordinator@rrc.texas.gov. The Commission will accept comments until noon (12:00 p.m.) on
11 Monday, October 10, 2016, which is 31 days after publication in the Texas Register. Comments should
12 refer to O&G Docket No. 20-0301391. The Commission finds that this comment period is reasonable
13 because the proposal and an online comment form will be available on the Commission's website more
14 than two weeks prior to Texas Register publication of the proposal, giving interested persons additional
15 time to review, analyze, draft, and submit comments. The Commission cannot guarantee that comments
16 submitted after the deadline will be considered. For further information, call Joe Stasulli, Well
17 Compliance Unit Manager, Oil & Gas Division, at (512) 463-3905. The status of Commission
18 rulemakings in progress is available at www.rrc.texas.gov/legal/rules/proposed-rules.

19 The Commission proposes these rules under Texas Natural Resources Code §§81.051 and
20 81.052, which provide the Commission with jurisdiction over all persons owning or engaged in drilling
21 or operating oil or gas wells in Texas and the authority to adopt all necessary rules for governing and
22 regulating persons and their operations under Commission jurisdiction; Texas Natural Resources Code
23 §§85.042, 85.202, 86.041 and 86.042, which require the Commission to adopt rules to control waste of
24 oil and gas; and Texas Natural Resources Code §85.053, which authorizes the Commission to adopt rules
25 relating to the allocation of production allowables.

1 Texas Natural Resources Code, §§81.051, 81.052, 85.042, 85.053, 85.202, 86.041, and 86.042
2 are affected by the proposed amendments.

3 Statutory authority: Texas Natural Resources Code §§81.051, 81.052, 85.042, 85.053, 85.202,
4 86.041, and 86.042.

5 Cross-reference to statute: Texas Natural Resources Code, Chapters 81, 85, and 86.
6

7 §3.28. Potential and Deliverability of Gas Wells to be ~~[To Be]~~ Ascertained and Reported.

8 (a) The information necessary to determine the absolute daily open flow potential of each
9 producing associated or nonassociated gas well shall be ascertained, and a report shall be filed as
10 required with ~~[on]~~ the ~~[appropriate]~~ Commission ~~[form in the appropriate Commission office]~~ within 90
11 ~~[30]~~ days of completion of the well. The test shall be performed in accordance with the Commission's
12 ~~[commission's]~~ publication, Back Pressure Test for Natural Gas Wells, State of Texas, or other test
13 procedure approved in advance by the Commission and shall be reported on the Commission's prescribed
14 form. An operator~~[, at his option,]~~ may determine absolute open flow potential from a stabilized
15 one-point test. For a one-point test, the well shall be flowed on a single choke setting until a stabilized
16 flow is achieved, but not less than 72 hours. The shut-in and flowing bottom hole pressures shall be
17 calculated in the manner prescribed for a four-point test. The Commission may authorize a one-point test
18 of shorter duration for a well which is not connected to a sales line, but a test which is in compliance
19 with this section must be conducted and reported after the well is connected before an allowable will be
20 assigned to the well. Back-dating of allowables will be performed in accordance with §3.31 of this title
21 (relating to Gas Reservoirs and Gas Well Allowable).

22 (b) After conducting the test required by subsection (a) of this section each operator of a gas well
23 shall conduct an initial deliverability test and report the test results on the Commission's prescribed form
24 not later than 90 ~~[ten]~~ days after completion of the well ~~[the start of production for one or more legal~~
25 ~~purposes and shall report such initial deliverability test on the prescribed form]~~. If a 72-hour one-point

1 back pressure test on a well connected to a sales line was conducted as provided in subsection (a) of this
2 section, the same test may be used to determine initial deliverability, provided the test was conducted in
3 accordance with subsection (c) of this section.

4 (1) After the initial deliverability test has been conducted, the following schedule for
5 well testing applies: [-]

6 (A) Nonassociated gas wells shall be tested semiannually.

7 (B) Associated ~~[49(b)]~~ gas wells described in §3.49(b) of this title (relating to
8 Gas-Oil Ratio) shall be tested annually.

9 (C) Wells with current reported deliverability of 100 Mcf a day or less are not
10 required to test as long as deliverability and production remain at or below 100 Mcf a day but are
11 required to file Form G-10 according to the instructions on the form.

12 (D) Wells with a deliverability greater than 100 Mcf a day and less than or equal
13 to 250 Mcf a day in fields without special field rules are not required to be tested as long as deliverability
14 and production remain equal to or less than 250 Mcf a day. ~~[Wells operating under special field rules~~
15 ~~which conflict with this subsection shall test in accordance with the special field rules.]~~

16 (2) Notwithstanding the above provisions on frequency of testing, gas wells
17 commingling liquid hydrocarbons before metering must comply with the testing provisions applicable to
18 such wells.

19 (3) All deliverability tests shall be conducted in accordance with subsection (c) of this
20 section and the instructions printed on the Form G-10. The results of each test shall be attested to by the
21 operator or its ~~[his]~~ appointed agent. The first purchaser or its representative upon request to the operator
22 shall have the right to witness such tests. Gas meter charts, printouts, or other documents showing the
23 actual measurement of the gas produced or other data required to be recorded during any deliverability
24 test conducted under this subsection shall be preserved as required by §3.1 of this title (relating to
25 Organization Report; Retention of Records; Notice Requirements) ~~[(Statewide Rule 1)]~~.

1 (4) In the event that the first purchaser and the operator cannot agree upon the validity of
2 the test results, then either party may request a retest of the well. The first purchaser upon request to the
3 operator shall have the right to witness the retest. If either party requests a representative from the
4 Commission to witness a retest of the well, the results of a Commission-witnessed test shall be
5 conclusive for the purposes of this section until the next regularly scheduled test of the well. In the event
6 a retest is witnessed by the Commission, the retest shall be signed by the representative of the
7 Commission.

8 (5) In the event that downhole remedial work or other substantial production
9 enhancement work is performed, or if a pumping unit, compressor, or other equipment is installed to
10 increase deliverability of a well subject to the Commission-witnessed testing procedure described in this
11 subsection, a new test may be requested and shall be performed according to the procedure outlined in
12 this subsection.

13 (c) Unless applicable special field rules provide otherwise or the director of the oil and gas
14 division or the director's delegate authorizes an alternate procedure due to a well's producing
15 characteristics, deliverability tests shall be performed as follows. Deliverability tests shall be scheduled
16 by the producer within the testing period designated by the [Railroad] Commission, and only the
17 recorded data specified by the Form G-10 is required to be reported. All deliverability tests shall be
18 performed by producing the subject well at stabilized rates for a minimum time period of 72 hours. A
19 deliverability test shall be conducted under normal and usual operating conditions using the normal and
20 usual operating equipment in place on the well being tested, and the well shall be produced against the
21 normal and usual line pressure prevailing in the line into which the well produces. The average daily
22 producing rate for each 24-hour period, the wellhead pressure before the commencement of the 72-hour
23 test, and the flowing wellhead pressure at the beginning of each 24-hour period shall be recorded. In
24 addition, a 24-hour shut-in wellhead pressure shall be determined either within the six-month period prior
25 to the commencement of the 72-hour deliverability test or immediately after the completion of the

1 deliverability test. The shut-in wellhead pressure that was determined and the date on which the 24-hour
2 test was commenced shall be recorded on Form G-10. Exceptions and extensions to the timing
3 requirements for deliverability tests and shut-in wellhead pressure tests may be granted by the
4 Commission for good cause. The flow rate during each day of the first 48 hours of the test must be as
5 close as possible to the flow rate during the final 24 hours of the test, but must equal at least 75% of such
6 flow rate. The deliverability of the well during the last 24 hours of the flow test shall be used for
7 allowable and allocation purposes. If pipeline conditions exist such that a producer believes a
8 representative deliverability test cannot be performed, the producer with pipeline notification may
9 request in writing that the Commission [~~commission~~] use either of the following as the deliverability of
10 record [~~a representative deliverability~~]:

11 (1) the deliverability test performed during the previous testing period; or

12 (2) the maximum daily production from any of the 12 months prior to the due date of the
13 test as determined by dividing the highest monthly production by the number of days in that month.

14 (d) After the initial deliverability test, an operator may elect not to perform and/or file a
15 subsequent deliverability test for a well. In those cases, the Commission shall use the lesser of the
16 following as the deliverability of record for the purpose of this section:

17 (1) the results of the most recent deliverability test on file with the Commission; or

18 (2) the maximum daily production from any of the 12 months prior to the due date of the
19 test as determined by dividing the highest monthly production by the number of days in that month.

20 (e) Notwithstanding subsection (d) of this section, a deliverability test must be performed on a
21 well in accordance with this section:

22 (1) at initial completion of the well;

23 (2) at recompletion of the well into a different regulatory field;

24 (3) at reclassification of the well from oil to gas;

25 (4) when the well is an inactive well as defined in §3.15 of this title (relating to Surface

1 Equipment Removal Requirements and Inactive Wells) and the operator resumes production from the
2 well;

3 (5) when the well is completed in a regulatory field where the allocation formula is
4 based in whole or in part on the downhole pressure of the well, and that allocation formula is not
5 suspended;

6 (6) when necessary to reinstate an allowable; or

7 (7) when required by Commission order, special field rule, or other Commission rule.

8 (f) [(d)] If the deliverability of a well changes after a test is reported to the Commission, the
9 deliverability of record for a well will be decreased upon receipt of a written request from the operator to
10 reduce the deliverability of record to a specified amount. If the deliverability of a well increases, a retest
11 must be conducted in the manner specified in this section and must be reported on Form G-10 before the
12 deliverability of record will be increased.

13 (g) [(e)] First purchasers with packages of gas dedicated entirely to a downstream purchaser
14 shall coordinate testing with and provide test results to that downstream purchaser if requested by the

1 downstream purchaser. In these cases, the downstream purchaser upon request to the operator shall have
2 the right to witness all deliverability tests and retests.

3 (h) ~~[(f)]~~ Tests of wells connected to a pipeline shall be made in a manner that no gas is flared,
4 vented, or otherwise wastefully used.

5
6 This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within
7 the agency's authority to adopt.

8 Issued in Austin, Texas on August 24, 2016.

9 Filed with the Office of the Secretary of State on August 24, 2016.



Haley Cochran
Rules Attorney, Office of General Counsel
Railroad Commission of Texas